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**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION**

CHASOM BROWN, WILLIAM BYATT,
JEREMY DAVIS, CHRISTOPHER
CASTILLO, and MONIQUE TRUJILLO,
individually and on behalf of all similarly
situated,

Plaintiffs,

v.

GOOGLE LLC,
Defendant.

Case No. 4:20-cv-03664-YGR-SVK

**GOOGLE LLC'S ADMINISTRATIVE
MOTION TO SEAL PORTIONS OF
GOOGLE LLC'S OPPOSITION TO
PLAINTIFFS' ADMINISTRATIVE
MOTION FOR RELIEF (DKT. 672)**

Referral: Hon. Susan van Keulen, USMJ

I. INTRODUCTION

Pursuant to Civil Local Rules 7-11 and 79-5, Defendant Google LLC (“Google”) respectfully seeks to seal the following portions of Google LLC’S Opposition to Plaintiffs’ Administrative Motion for Relief (Dkt. 672) (“Opposition”), which contain Google’s confidential and proprietary information, including details related to Google’s internal projects and proposals and their proprietary functionalities. This information is highly confidential and should be protected.

This Administrative Motion pertains to the following information contained in the Opposition:

Documents Sought to Be Sealed	Portions to be Filed Under Seal	Party Claiming Confidentiality
Exhibit A Excerpts to Berntson June 16, 2021 30(b)(6) transcript	Portions Highlighted at: Pages 4:12, 4:18, 4:21, 5:14-15, 372:11, 372:15, 390:1-2, 39:15, 390:20, 395:24, 396:14	Google
Exhibit B GOOG-BRWN-00157001 (text file)	Seal Entirely	Google

II. LEGAL STANDARD

The common law right of public access to judicial records in a civil case is not a constitutional right and it is “not absolute.” *Nixon v. Warner Communications, Inc.*, 435 U.S. 589, 598 (1978) (noting that the “right to inspect and copy judicial records is not absolute” and that “courts have refused to permit their files to serve as reservoirs of . . . sources of business information that might harm a litigant’s competitive standing”). Sealing is appropriate when the information at issue constitutes “competitively sensitive information,” such as “confidential research, development, or commercial information.” *France Telecom S.A. v. Marvell Semiconductor Inc.*, 2014 WL 4965995, at *4 (N.D. Cal. Oct. 3, 2014); *see also Phillips v. Gen. Motors Corp.*, 307 F.3d 1206, 1211 (9th Cir. 2002) (acknowledging courts’ “broad latitude” to “prevent disclosure of materials for many types of information, including, but not limited to, trade secrets or other confidential research, development, or commercial information”).

III. THE ABOVE IDENTIFIED MATERIALS SHOULD ALL BE SEALED

1 Courts have repeatedly found it appropriate to seal documents that contain “business
 2 information that might harm a litigant’s competitive standing.” *Nixon*, 435 U.S. at 589-99; *see also*
 3 *Turner v. United States*, 2019 WL 4732143, at *9 (finding good cause to seal “confidential medical
 4 information”). Good cause to seal is shown when a party seeks to seal materials that “contain[]
 5 confidential information about the operation of [the party’s] products and that public disclosure could
 6 harm [the party] by disclosing confidential technical information.” *Digital Reg. of Texas, LLC v.*
 7 *Adobe Sys., Inc.*, 2014 WL 6986068, at *1 (N.D. Cal. Dec. 10, 2014). Materials that could harm a
 8 litigant’s competitive standing may be sealed even under the “compelling reasons” standard. *See e.g.*,
 9 *Icon-IP Pty Ltd. v. Specialized Bicycle Components, Inc.*, 2015 WL 984121, at *2 (N.D. Cal. Mar. 4,
 10 2015) (information “is appropriately sealable under the ‘compelling reasons’ standard where that
 11 information could be used to the company’s competitive disadvantage”) (citation omitted).

12 Here, the Opposition comprises confidential information regarding highly sensitive features of
 13 Google’s internal systems and operations that Google does not share publicly. Specifically, this
 14 information provides details related to Google’s internal projects, proposals, and their proprietary
 15 functionalities. Such information reveals Google’s internal strategies, system designs, and business
 16 practices for operating and maintaining many of its important services while complying with legal and
 17 privacy obligations.

18 Public disclosure of the above-listed information would harm Google’s competitive standing it
 19 has earned through years of innovation and careful deliberation, by revealing sensitive aspects of
 20 Google’s proprietary systems, strategies, designs, and practices to Google’s competitors. That alone is
 21 a proper basis to seal such information. *See, e.g., Free Range Content, Inc. v. Google Inc.*, No. 14-cv-
 22 02329-BLF, Dkt. No. 192, at 3-9 (N.D. Cal. May 3, 2017) (granting Google’s motion to seal certain
 23 sensitive business information related to Google’s processes and policies to ensure the integrity and
 24 security of a different advertising system); *Huawei Techs., Co. v. Samsung Elecs. Co.*, No. 3:16-cv-
 25 02787-WHO, Dkt. No. 446, at 19 (N.D. Cal. Jan. 30, 2019) (sealing confidential sales data because
 26 “disclosure would harm their competitive standing by giving competitors insight they do not have”);
 27 *Trotsky v. Travelers Indem. Co.*, 2013 WL 12116153, at *8 (W.D. Wash. May 8, 2013) (granting
 28

1 motion to seal as to “internal research results that disclose statistical coding that is not publically
2 available”).

3 Moreover, if publicly disclosed, malicious actors may use such information to seek to
4 compromise Google’s internal systems and data structures. Google would be placed at an increased
5 risk of cybersecurity threats, and data related to its users could similarly be at risk. *See, e.g., In re*
6 *Google Inc. Gmail Litig.*, 2013 WL 5366963, at *3 (N.D. Cal. Sept. 25, 2013) (sealing “material
7 concern[ing] how users’ interactions with the Gmail system affects how messages are transmitted”
8 because if made public, it “could lead to a breach in the security of the Gmail system”). The security
9 threat is an additional reason for this Court to seal the identified information.

10 The information Google seeks to redact is the minimal amount of information needed to
11 protect its internal systems and operations from being exposed to not only its competitors but also to
12 nefarious actors who may improperly seek access to and disrupt these systems and operations. The
13 “good cause” rather than the “compelling reasons” standard should apply but under either standard,
14 Google’s sealing request is warranted.

15 **IV. CONCLUSION**

16 For the foregoing reasons, Google respectfully requests that the Court seal the identified
17 portions of the Opposition.

18
19 DATED: August 16, 2022

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